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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

)
)
) Policies and Rules Implementing
) the Telephone Disclosure and Dispute
) Resolution Act
)
)

CC Docket No. 93-22

Comments of InfoAccess, Inc. on the Further Notice of Proposed Rule Making

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TABLE OF CONTENTS

	Page
SUMMARY	ii
I. Introduction	1
A. Information Services and the Telephone Disclosure and Dispute Resolution Act.....	1
B. The NPRM and the Position of InfoAccess.....	4
II. Discussion.....	6
A. Restricting purchases of information services by credit or charge cards to "generally accepted" credit or charge cards will unreasonably restrict access to information services and stunt the industry's growth.....	6
1. Restricting purchases of information services by credit or charge cards to only "generally accepted" credit or charge cards would be arbitrary and capricious.....	6
2. Restricting purchases of information services to "generally accepted" credit and charge cards will disproportionately harm small IXC.....	10
B. Requiring written presubscription agreements is unnecessary and overburdensome for consumers, IPs, IXCs, and LECs.....	10
C. Prohibiting a calling party from being connected over an 800 number platform to a "no charge" information service will disrupt the information services industry.....	14
III. Conclusion.....	17

Summary of Comments

InfoAccess believes that the Further Notice of Proposed Rule Making ("NPRM") charts an unclear course for the information services industry. The proposed rule changes are imprecise, overly restrictive and outside of the Commission's authority. Thus, if adopted, the Commission will be acting arbitrarily and capriciously and the NPRM will have the unintended effect of reducing rather than increasing consumer confidence in the marketplace.

InfoAccess believes that: (i) restricting purchases of information services by credit or charge cards to "generally accepted" credit or charge cards will unreasonably restrict access to information services and stunt the industry's growth; (ii) requiring written presubscription agreements is unnecessary and overburdensome for consumers, IPs, IXC's, and LEC's; and (iii) prohibiting a calling party from being connected over an 800 number platform to a "no charge" information service will disrupt the information services industry. All of the underlying concerns that culminated in the Commission's proposed changes can be addressed by less costly and restrictive measures.

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Comments of InfoAccess, Inc. on the Further Notice of Proposed Rule Making

InfoAccess, Inc. ("InfoAccess") is an interexchange ("IXC") carrier providing tariffed transport services to information providers ("IPs") and hereby files these Comments in accordance with the Commission's Order on Reconsideration and Further Notice of Proposed Rule Making ("NPRM") in the above-captioned matter.¹ In support hereof, it is respectfully stated:

¹ Adopted on August 2, 1994 and released on August 31, 1994.

I. Introduction

A. Information Services and the Telephone Disclosure and Dispute Resolution Act

IPs provide telephone users with a variety of information services for which there may or may not be a charge. When IPs charge for providing information, the charged rates are independent of the normal transmission rates charged for ordinary telephone calls. The variety of information services is remarkable and the industry is growing at a rapid pace. Stock market quotes, sports scores, crossword puzzle clues, legal advice, family counseling, medical advice, computer product information, horoscopes and bulletin boards are but a sampling of the diverse subjects accessible via IPs.² Charitable and tax exempt organizations employ information services for fundraising. Many political polls are conducted through information services. Television networks have considered using this technology for interactive game shows and to receive viewer feedback. Retailers are interested in using 800 numbers for at-home shopping. The Wall Street Journal and other highly respected publications currently charge for news, stock quotes and weather reports. New product advertising, weather and time lines are some examples of information services offered for no charge.

It is clear, therefore, that the emergence of integrated information technology is dramatically changing and will continue to change how people and businesses deal in information and entertainment products and services. Understandably, this leads to changes in the law. As Thomas Jefferson once stated, "[L]aws and institutions must go

² Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act, CC Dkt. No. 93-22, Notice of Proposed Rule Making and Notice of Inquiry, 8 FCC Rcd. 2331, 2332 (1993).

hand and hand with the progress of the human mind ... [Otherwise,] [w]e might as well require a man to wear still the coat which fitted him when a boy."³

In enacting Telephone Disclosure and Dispute Resolution Act⁴ ("TDDRA"), Congress found that information services "provide valuable information, increase consumer choices, and stimulate innovative responsive services that benefit the public."⁵ Moreover, Congress found that the information services industry "has grown exponentially in the past few years into a national, billion-dollar industry as a result of recent technological innovations. Such services are convenient to consumers, cost-effective to vendors, and profitable to many communications carriers."⁶ However, Congress also acknowledged that the continued growth of the legitimate information services industry will depend upon the balancing of: (i) consumer confidence "that unfair and deceptive behavior will be effectively curtailed and that consumers will have adequate rights of redress,"⁷ and (ii) IP confidence that their rights and obligations for resolving billing disputes will be respected, "if they are to use this new marketplace for the sale of products of more than nominal value."⁸

³ See Inscription at the Jefferson Memorial, Washington, D.C.

⁴ Public Law 102-556, 106 Stat. 4181 (approved Oct. 28, 1992). Title I of TDDRA directs the Commission to enact regulations defining the obligations of common carriers with respect to the provision of pay-per-call services and certain uses of 800 telephone numbers. 47 U.S.C. § 228. Title II of TDDRA directs the Federal Trade Commission ("FTC") to enact regulations governing the advertising and the operation of such services and uses. 15 U.S.C. §§ 5711-14. Title III of TDDRA directs the FTC to prescribe regulations establishing procedures for the correction of billing errors with respect to telephone-billed purchases. 15 U.S.C. §§ 5721-24.

⁵ 15 U.S.C. 5701 (1)(b)(2).

⁶ 15 U.S.C. 5701 (1)(b)(2).

Thus TDDRA, among other things, is a forward-looking step by Congress to make information services easily accessible to consumers and businesses by creating an 800 number platform for that purpose. In this regard, TDDRA is an effort by Congress to ensure that the legal strictures of yesterday do not unduly chill tomorrow's entrepreneurs, and thereby, stunt the growth of the information service industry.⁹ Likewise, the Commission must be forward-looking.¹⁰ Accordingly, the Commission's rules promulgated under TDDRA must respect Congress' intent to establish an 800 number platform for information conveyed to calling parties for a charge and cannot serve as a forum for the Commission to redraft legislative history in a manner that is not reflective of Congress' intent.

B. The NPRM and the Position of InfoAccess

The Commission's stated objective in the NPRM is to amend its "regulations to give telephone subscribers greater protection from fraudulent and deceptive practices

⁹ In accord, Wired, July 1994, p. 65, wherein Congressman Edward Markey was quoted as stating that he hoped the Communications Act of 1994 would achieve "[m]any competitors, in a market-driven environment, providing low-priced, high-quality information services to every American, with the government playing a minimal role in assuring that the marketplace works."

¹⁰ On July 28, 1994, Commission Chairman Reed D. Hundt testifying before the House Subcommittee on Telecommunications on the Global Information Infrastructure and the Role of Satellites discussed the Administration's and the Commission's forward-looking commitment to the development of a diverse Global Information Infrastructure:

At the World Telecommunications Development Conference in March in Buenos Aires, Argentina, Vice-President Gore announced an initiative to foster the development of a Global Information Infrastructure. That network of networks would increase our ability to communicate around the globe. Guided by the principles of private investment, competition, open access to the network, appropriate and flexible regulation and universal service, we hope to foster the growth of a communications infrastructure that is truly global in its reach and diverse in its service.

associated with the use of 800 numbers to provide information services."¹¹ The Commission identifies three major "problems" in the provision of 800 information services: (i) the use of "instant" credit or charge cards issued by an IP or IXC for particular information services;¹² (ii) the billing of charges for information services to telephone subscribers pursuant to the ANIs (automated number identification) of the originating telephone calls;¹³ and (iii) the "use [of] 800 numbers to provide access to international or other information services which may not strictly fall within the statutory definition of pay-per-call."¹⁴

Addressing the issue of instant credit or charge cards the Commission proposes that only credit or charge cards which are generally available for the purchase of consumer goods, entertainment, travel, and lodging can be used to purchase 800 information services.¹⁵ Regarding unauthorized charges, the Commission proposes that all presubscription arrangements must be in writing so that evidence of a presubscription arrangement can be presented to the billing entity prior to charging the telephone subscriber.¹⁶ The Commission further proposes to address accessing through an 800 number platform "international or other information services which may not fall strictly within the statutory definition of pay-per-call" over an 800 number platform by

¹¹ NPRM at 2.

¹² *Id.* at 13, 15 n.41.

¹³ *Id.* at 8-9, 13.

¹⁴ *Id.* at 12-13 n.36.

¹⁵ *Id.* at Appendix C, proposed Section 64.1501(b)(5)(ii).

¹⁶ *Id.* at Appendix C, proposed Sections 64.1501(b) and 64.1510(b)(1).

prohibiting 800 numbers from being used to connect callers to any information service that is not provided under a presubscription arrangement.¹⁷

It is the position of InfoAccess that the NPRM charts an unclear course for the information services industry. If adopted as proposed, the NPRM will have the unintended result of impeding consumers and businesses from accessing the information highway and limiting the growth of the network's essential infrastructure. In addition, the microeconomic effect of the administrative costs associated with the NPRM's proposed changes will stifle opportunities for small IPs and IXC's to enter and develop their services on the information highway. In short, InfoAccess believes that the Commission's proposed rule changes lose sight of the balancing of interests that Congress attempted to achieve in enacting TDDRA. The proposed rules will reduce, rather than increase, both consumer (individuals and businesses) and IP confidence in the marketplace for information services. Taken in total, the staggering costs of the proposed changes far outweigh any perceived or actual benefits.

II. Discussion

A. Restricting purchases of information services by credit or charge cards to "generally accepted" credit or charge cards will unreasonably restrict access to information services and stunt the industry's growth

1. Restricting purchases of information services by credit or charge cards to only "generally accepted" credit or charge cards would be arbitrary and capricious

TDDRA provides that a calling party can be charged for information services over an 800 number telephone call when "the calling party being charged for information

¹⁷ *Id.* at Appendix C, proposed Section 64.1504(b).

conveyed during the call...discloses a credit or charge card number during the call."¹⁸ Indeed, the Commission stated in its Report and Order that "[t]he legislative history of TDDRA provides evidence of congressional intent to leave credit or charge card transactions outside the scope of TDDRA."¹⁹ In doing so, the Commission also explicitly stated in the Report and Order that "[a] telephone company calling card subject to these Acts is, for the purposes herein, a credit card."²⁰ The Commission thus restricted the use of credit or charge cards to those cards that are subject to the dispute resolution procedures of the Truth in Lending and Fair Credit Billing Acts²¹ reasoning that "Congress' willingness to exempt credit card transactions from the scope of TDDRA was premised, at least in part, on an assumption that consumers engaging in such transactions would receive independent protection under the Truth in Lending and Fair Credit Billing Acts."²²

The NPRM proposes to change Section 64.1501(b) of the Commission's Rules to further restrict purchases of information services by credit or charge cards to only those cards that are "generally accepted for the purchase of consumer goods, entertainment, travel, and lodging."²³ The Commission's rationale for this further restriction is to prohibit IPs and IXCs from "creating instant 'presubscription' by immediately issuing to a

¹⁸ 47 U.S.C. 228(6)(C).

¹⁹ Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act, CC Dkt. No. 93-22, Report and Order, 8 FCC Rcd 6885, 6887 (1993), Recon. Pending ("Report and Order").

²⁰ Id.

²¹ See Section 64.1501(a)(2).

²² Report and Order at 6888 n. 25.

²³ NPRM at 13.

caller...a 'credit' card that is billed on a monthly telephone bill and usable for purchasing information services from the particular IP."²⁴ However, the Commission fails to explain: (i) why the issuance of "instant" credit or charge cards which are subject to the Truth in Lending and Fair Credit Acts offer any less consumer protections than "generally accepted" credit or charge card which are also subject to the Truth in Lending and Fair Credit Acts and can also be instantly issued; (ii) how further restricting the use of credit and charge cards to "generally accepted" credit or charge cards is consistent with Congress' intent to keep purchases of information services by credit or charge cards independent from the restrictions of TDDRA; and (iii) how the proposed standard of "generally accepted" can be applied in the marketplace.

Any use of a credit or charge card by the cardholder is a voluntary indication that the cardholder understands the terms and conditions of the card's use and agrees with those terms and conditions.²⁵ By further restricting the use of credit or charge cards for the purchase of information services to only those subject to the Truth in Lending and Fair Credit Acts and also only those which are "generally accepted," the Commission has not furthered its stated objective of consumer protection because the protections available to consumers under the present rule are the same as the protections that would be available to consumers pursuant to the proposed rule. Moreover, the Commission's further restrictions do not prevent IPs and IXC's from issuing "instant," but "generally accepted" credit or charge cards. Thus, the Commission has failed to give any factual justification to adequately explain its rationale for further restricting purchases of information services to only credit or charge cards that are subject to the Truth in Lending

²⁴ Id.

²⁵ Report and Order at 6888 n. 25. Equally, if not more importantly, the use of such a card indicates the calling party's understanding that it will be charged for the information conveyed during the course of the call.

and Fair Credit Acts and which are "generally accepted."²⁶ Nor has the Commission given any explanation, whatsoever, for its complete reversal of its previous determination that telephone company calling cards would be considered as credit cards for purposes of Section 1501(b).²⁷

The restriction of credit or charge cards to those which are "generally accepted" is also an unreasonable restraint upon a method of payment for information services which Congress had clearly intended to be independent of TDDRA and the rules promulgated thereunder. In essence, the Commission is attempting to subsequently revise legislative history and not giving deference to Congress' intent.²⁸ Furthermore, the term "generally accepted" as a standard is imprecise and commercially unacceptable. It will cause great uncertainty and will chill the use of any credit or charge card purchases of information services. In sum, the Commission has neither the expertise or the authority to restrict the use of credit and charge cards for the purchase information services beyond what is commercially acceptable and which is already contained in the Commission's present rules.

²⁶ Under the Administrative Procedure Act, the Commission's adjudications must not be an "arbitrary, capricious, abuse of discretion, or otherwise not in accordance with law." See 5 U.S.C. § 706(2)(A); Dr. Pepper/Seven-Up Companies, Inc. v. F.T.C., 991 F.2d 859, 863-4 (D.C. Cir. 1993). In order to satisfy the arbitrary and capricious standard of review, the Commission's actions must be based upon a consideration of relevant factors and must be adequately explained in the administrative record to allow judicial review. Id.; Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 416-20 (1971).

²⁷ Report and Order at 6888 n. 25.

²⁸ In determining whether the Commission exceeds its statutory authority in issuing regulations, a reviewing court will consider whether Congress has spoken directly to the precise question at issue by looking to the particular statutory language as well as the language and design of the statute as a whole. Chemical Mfrs. Ass'n v. U.S. E.P.A., 919 F.2d 158 (D.C. Cir. 1990). In order to be valid, regulations must be consistent with the statute under which they are promulgated. U.S. v. Larionoff, 431 U.S. 820 (1977).

2. Restricting purchases of information services to "generally accepted" credit and charge cards will disproportionately harm small IXC's

The majority of IXC's offer regional services. Although these small IXC's have nationwide termination capabilities, they are restricted to specific geographic regions for the origination of calls. The advent of the 800 gateway and the issuance of a calling card by which to access that gateway has enabled these carriers to stay competitive with the large and ubiquitous IXC's for 1+ services. For instance, a businessman from Peoria, Illinois with a calling card from his regional IXC can use his calling card via the 800 gateway to select his regional IXC for origination of his 1+ calls even though, in fact, he is calling from outside his IXC's regional territory. Similarly, 800 gateway services provide small IXC's with the opportunity to capture the traveling caller that will be accessing information services from outside the IXC's regional area. For instance, a service representative of an equipment dealership working on a field test of an equipment unit in a remote location who needs specific product information from a parts manufacturer can use his/her calling card with an 800 number to access information services.

Telephone calls accessing information services, through the use of a credit or a calling card's 800 gateway, can be transported by small IXC's that have issued calling cards. Without the availability of the 800 gateway, small IXC's will be completely closed out of one of the fastest growing transport markets and IPs will be forced to seek transport services from the few carriers that offer nationwide 800 transport services.

B. Requiring written presubscription agreements is unnecessary and overburdensome for consumers, IPs, IXC's, and LEC's

The threshold requirement for a presubscription arrangement is a "contractual agreement" between the IP and the consumer. Presently, the contractual agreement between the consumer and the IP can be oral or written. The Commission is proposing to amend Section 64.1510(b)(1) by prohibiting billing entities from charging for information

services provided through a presubscription arrangement unless they are presented with evidence that written presubscription arrangements were established pursuant to Section 64.1501(b).

The Commission provides two primary reasons to require written presubscription arrangements: (i) unauthorized presubscription arrangements are being established by IPs capturing the ANI of the originating telephone call;²⁹ and (ii) IPs are billing telephone line subscribers for telephone calls to information services on the basis of unauthorized presubscription arrangements established from a subscriber's telephone without the knowledge or permission of the subscriber.³⁰

Requiring written evidence of presubscription arrangements as a solution to these concerns provides the highest degree of certainty that the subscriber has authorized the provision of information services to his/her telephone line. However, this method also implicates the highest costs to consumers, IPs, IXC's and LEC's and is unduly burdensome when less Draconian methods of confirming presubscription arrangements are readily available, less costly, and equally effective.

The problem of unauthorized presubscription arrangements is not a new issue to the Commission. The Commission effectively dealt with this problem when it fashioned a solution to the unauthorized switching of consumers' IXC's (otherwise known as the "slamming" of 1+ services).³¹ "Slamming" was an abuse by some IXC's of the Commission's Rules with respect to equal access which required establishing presubscription arrangements between the telephone subscriber and the IXC of his/her

²⁹ NPRM at 11-12.

³⁰ *Id.*

³¹ Policies and Rules Concerning Changing Long Distance Carriers, CC Dkt. No. 91-64, Report and Order, 7 FCC Rcd 1038 (1992). ("PIC Verification Order")

choice. The original IXC allocation plan adopted by the Commission required IXCs to have a letter of agency ("LOA") on file before submitting a primary interexchange carrier ("PIC") change order to the LEC on behalf of the customer. After vigorous objections from IXCs that a written LOA requirement would stifle competition, the Commission adopted new rules which require IXCs (before submitting PIC change orders on behalf of customers to LECs) to institute one of four confirmation procedures to confirm that the PIC change order was authorized by the telephone subscriber.

The "slamming" problem is directly analogous to the problem of unauthorized presubscription arrangements for information services. Both problems concern vendors of services (IXCs in the case of 1+ services and IPs in the case of information services) allegedly abusing the procedures for establishing presubscription arrangements. As with slamming, the resolution of the problem of unauthorized presubscription arrangements for information services can be resolved by confirming the presubscription arrangement with the telephone subscriber without limiting the confirmation to only written presubscription agreements. Accordingly, the four alternative methods adopted by the Commission to confirm 1+ services can be directly applied to confirm the establishment of presubscription arrangements for information services.³² Indeed, these four procedures have been recently added to InfoAccess' tariff.³³

³² Specifically, the Commission required IXCs, before PIC change orders on behalf of customers to LECs, to institute one of four confirmation procedures: (1) obtaining a written LOA from the customer; (2) providing an 800 telephone number for the customer to call to confirm PIC change orders; (3) obtaining the customer's authorization by use of an independent third party verifier; or (4) (a) within three business days of the customers' request for a PIC change, the IXC must send each new customer an information package containing at least the names of the customers' current IXC and the new IXC; a description of any terms and conditions, or charges incurred, the name of the person ordering the change; the name, address, and telephone number of both the customer and the new IXC; and a postpaid postcard which the customer can use to deny, cancel, or confirm a service order and (b) the IXC must wait 14 days after the information package

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InfoAccess believes that the Commission should propose rules which require IPs or IPs' billing entities to confirm the authorization of a presubscription agreement prior to billing the telephone subscriber for information services by implementing any one of the four following confirmation methods:

- (1) By written authorization, which includes: (a) the customer's name, address and telephone number and date of birth; (b) a statement that the customer has decided to use the IP's service; (c) a statement acknowledging the customers' understanding of , and agreement with, the IP's terms and conditions of the service; and (d) the customer's signature.
- (2) By electronic or manual authorization that confirms the information described in method (1). IPs electing this method shall establish one or more 900 telephone numbers for which there shall be no charge. Customers must call these telephone numbers to confirm the establishment of their presubscription agreements. Calls to these telephone numbers will automatically or manually record the required information to confirm the presubscription agreement.
- (3) By an appropriately qualified and independent third party operating in a location physically separate from the IP who confirms with the customer the customer's oral authorization establishing the presubscription agreement, and the customer's name, address, telephone number, PIN and date of birth; or
- (4) By direct mail with written notification, in which the IP shall: (a) mail a promotional piece in a sealed envelope directly to the potential customer which contains a unique PIN assigned to the customer's name and address; (b) require the customer to call an 800 number to activate the assigned PIN, which must be made from the customer's telephone, the customer shall be required to establish a presubscription agreement in accordance with 47 C.F.R. §64.1501(b) and enter the assigned PIN (the caller will not be able

(Footnote continued from previous page)

is mailed to the customers before submitting their PIC change order to the LECs. PIC Verification Order at 1039.

³³ Effective July 12, 1994.

to access the IP's services during the activation call described in this subsection); and (c) mail a letter to the customer confirming the existence of a presubscription agreement, its terms and conditions, and provide a customer service number for blocking and customer inquiries.

With respect to 1+ services, confirming the establishment of authorized presubscription arrangements by one of four alternative procedures has successfully resolved the slamming problem. For the same reasons, implementing the same four confirmation procedures with respect to information services can resolve the problem of unauthorized presubscription arrangements. These confirmation procedures will not be unnecessarily costly or burdensome to consumers, IPs, IXC's and LEC's, and will provide consumers with necessary protections against deceptive practices in accordance with the Commission's stated objectives.

C. Prohibiting a calling party from being connected over an 800 number platform to a "no charge" information service will disrupt the information services industry

The Commission has proposed to amend Section 64.1504(b) of its Rules such that "800 numbers may not be used to connect callers to any information service that is not provided under a presubscription arrangement."³⁴ Thus, IPs and IXC's would be "prohibited explicitly from transferring callers to 800 numbers to any information service, not simply those defined as pay-per-call that are offered on 900 numbers."³⁵

³⁴ NPRM at 13. The proposed rule would provide that IXC's shall prohibit "[t]he calling party being connected to a pay-per-call service or any other information service that is not provided in accordance with paragraph (c) [which requires presubscription arrangements for information conveyed for a charge over an 800 number] of this section." Appendix C, proposed Section 64.1504(b).

³⁵ NPRM at 13.

However, practically every IXC transports and switches callers to "no charge" information services by the use of an 800 number but without a presubscription arrangement. These "no charge" information services are, to name a few, the IRS' tax help line, Proctor & Gamble's product information line, and American Airlines' flight arrival line. As such, any IXC that connects a calling party via an 800 number through the IXC's tariffed services to any of the thousands of "no charge" information services would be violating the Commission's proposed change to Section 64.1504(b).

Certainly, this was not the intent of the Congress. Moreover, an IXC would be in violation of the Commission's proposed change to Section 64.1504(b) every time an IXC's 800 travel access number would be used to connect to a calling party to a "no charge" information service.³⁶ For instance, if a traveler to Chicago, prior to arriving in Chicago, wanted to find out what films were playing there and called an IXC's 800 travel access number and then 1-312-777-FILM (a free information service), this telephone call also would be in violation of the proposed change to Section 64.1504(b). Similarly, the result would be the same if the telephone call through the IXC's 800 travel access number was to a weather information service in Chicago or to an airline for arrival information. If the proposed change to Section 64.1504(b) was adopted, practically every IXC presently transporting no charge information services would be knowingly in violation of Section 64.1504(b) and could be a target for prosecution.³⁷

TDDRA does not discuss the provision of information services which are provided for no charge to the calling party over an 800 number platform or over an 1+

³⁶ This assumes that it is permissible to use a calling card to place a telephone call to an information service as discussed herein in part A.

³⁷ 47 U.S.C. 228(e) provides, in relevant part, that "[n]o common carrier shall be liable for a criminal or civil sanction ...unless the carrier knew or reasonably should have known that such service was provided in violation of a provision of, or regulation prescribed pursuant" to TDDRA.

service or over an international service. In TDDRA, Congress created specifically an 800 number platform for the provision of information services conveyed at a charge to the calling party.³⁸ Moreover, TDDRA defines "pay-per-call" services and it is clear by deduction that information services which are conveyed for a charge and provided through an 800 number platform by a presubscription arrangement are separate and distinct from "pay-per-call" services. "No charge" information services provided via an IXC's tariffed services are not within the scope of TDDRA's definition of "pay-per-call" nor are they information services which are conveyed for a charge and therefore do not require an 800 number presubscription arrangement under TDDRA.

InfoAccess believes that the proposed change to Section 64.1504(b) is unintentionally overinclusive because it captures "no charge" information services. By simply adding the words "or is being only charged the tariffed rate for the call's transport" to the end of Section 64.1504(c), instead of the proposed change to Sections 64.1504(b) and 64.1504(c), InfoAccess believes that Section 64.1504(c) will make it clear that the provision of tariffed 800 number services by IXCs connecting calling parties to "no charge" information services is lawful. Alternatively, proposed Section 64.1504(b) could be revised by adding the words "or any other information service for which information is conveyed for a charge" which will prohibit "[t]he calling party [from] being connected to a pay-per-call service or any other information service for which information is conveyed for a charge."

InfoAccess requests that the Commission clarify that information services provided at "no charge" pursuant to an 800 number platform,³⁹ a tariffed international

³⁸ 47 U.S.C. 228(c)(6).

³⁹ TDDRA does not require that the IP charge for information provided nor does TDDRA prevent the IP from earning a commission for the traffic that it adds to an IXCs network. For instance, there is nothing in TDDRA that would prevent an IXC from

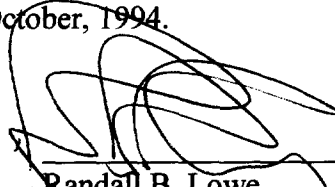
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service, or a tariffed 1+ service, are not within the scope of TDDRA or other pay-per-call rules and that the provision of such services are not otherwise unlawful.

III. Conclusion

TDDRA is a forward-looking step by Congress to make information services easily accessible to consumers and businesses by creating an 800 platform for that purpose. The Commission's Rules promulgated thereunder must be reflective of Congress' intent and must seek the appropriate balance between consumer protection and the future development of the information highway. Accordingly, InfoAccess requests that the Commission reexamine the NPRM's proposed rules changes as discussed herein.

Respectfully submitted this 11th day of October, 1994.



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paying a commission to a business entity, i.e., Georgetown University, for the 800 number traffic that the entity brings to the IXC's network by providing information services. AT&T has a tariff that pays the called party (the business entity) for telephone calls terminated to that called party. In this instance, a dedicated circuit is placed by the entity between the entity providing the information and AT&T. Everyone that calls the business entity is charged the standard AT&T rate but because the entity has placed a dedicated circuit between AT&T and the entity, AT&T does not have to pay any switched access charges. These savings amount to over 4 cents per call for AT&T from which 3 cents is given to the entity for stimulating the traffic.